IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

LA.App..No. 393 of 2007()

LAR.35/2002 of SUB COURT, OTTAPPALAM

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APPELLANT: CLAIMANT

KARATHANATHODI FATHIMA, W/O. SAIDU,
AGED 99 YEARS, KODUMUNDA, PATTAMBI VIA,
PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: RESPONDENTS

1. THE PUNJAB NATIONAL BANK,
PALLIPPURAM, REP. BY ITS BRANCH MANAGER.

2. THE SPECIAL TAHSILDAR,
LAND ACQUISITION (RAILWAY), TIRUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.C.AJITH KUMAR

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

L.A.A.No. 393 of 2007

Dated this the 15th October, 2007.

J U D G M E N T

Heard. Admitted. Advocate Sri.C.Ajith Kumar appears for the Bank. The learned Government Pleader appears for the State. The appeal itself is heard and disposed of.

2. The appellant was the original owner of the property. An area of 0.175 hectres of wet land, comprised in Survey No.22/15 (Old Survey No.22/6pt) of Muthuthala Village in Ottappalam Taluk was acquired for doubling of railway line between Pallipuram and Pattambi. A compensation of Rs.12,130/= was awarded. The appellant did not appear before the Land Acquisition Officer. So, the amount was deposited in court under Section 31(2) of the Land Acquisition Act, for short 'the Act'. Thereafter, notice was issued from the court to the appellant. But the appellant did not appear and contest the matter. In the mean while, Punjab National Bank, Pallippuram Branch, got itself impleaded as supplemental B claimant. The Bank produced documents to show that acquired property was sold in auction for realisation of the amount due from the appellant to

the bank. It also produced documents to show that it was the owner of the property. So, the bank was allowed to withdraw the compensation. Challenging that judgment, this appeal is filed.

3. The learned counsel appearing for the appellant argued that the property was taken possession from the appellant, and hence, she is entitled to get compensation in respect of the same. It is not disputed that she did not appear before the Land Acquisition Officer on receipt of Section 9 (3) notice under the Act. It is also not disputed that inspite of notice from the court, she did not contest the case. Appellant did not file a written statement and did not appear on the day, on which the case was posted for evidence. The bank got itself impleaded as B Claimant, on the ground that the property including the acquired property was sold for realisation of debts due from the appellant to the bank. That fact is not disputed.

4. The only contention raised in the appeal is that the appellant is still in possession of the property, and she is paying land tax. That alone is not sufficient to hold that she is the title holder. Ext.A1 is the sale certificate issued in favour of the Bank in E.P.No. 49/1998 in O.S.No.282/86, on the file of the Munsiff Magistrate Court,

Pattambi. Ext.A2 is the delivery account of the property, which shows that on 13.8.1991, the property was delivered over to the decree holder. Exts.A3 and A4 are the tax receipts produced by the Bank to show that on 2002-03, it paid the land tax. Ext.A5 is the possession certificate issued by the Village Officer to Nedungadi Bank Ltd., to the effect that acquired property is in the possession of the Bank. The materials on record clearly establishes that Bank became the owner of the property acquired and hence, the amount was allowed to be withdrawn by the bank. So, I do not find any reason to interfere with the judgment passed by the court below. The same is only to be dismissed.

In the result, the appeal is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.